

FYI – For Your Information

Sales Tax Exemption on Industrial Utility Usage

GENERAL INFORMATION

Businesses may qualify for the sales tax exemption on industrial utility usage. The utilities consumed in manufacturing and processing must be used in the continuing business activity of producing or processing tangible personal property.

The following uses of utilities, which include electricity, coal, gas, fuel oil, coke, or nuclear fuel, qualify for the sales tax exemption: manufacturing and processing; mining; refining; irrigation; construction; telegraph, telephone, and radio communication; and street and railroad transportation services. Activity prior to or subsequent to manufacturing and processing a product is not exempt. [§39-26-102(21) C.R.S.]

Taxable uses of utilities include: parking lot lighting; cooling and lighting in office portions of a building, lunch rooms, laboratories, maintenance rooms, computer rooms, lounges, waiting areas and any customer-used areas.

DETERMINING THE EXEMPT PORTION OF USAGE

Compute the percentage of utility usage which is exempt for the industrial purposes stated above. This is calculated by comparing the amount of utility usage for the exempt and taxable portions of the plant served by each meter. Retain these records for future audit purposes.

WHEN TOTAL USAGE IS 75 PERCENT OR MORE EXEMPT

If your total usage is exempt by 75 percent or more, complete and send a "Sales Tax Exempt Certificate Electricity & Gas for Industrial Use" (Form DR 1666) to your utility company. This form is available from the Department of Revenue. The utility company will stop charging you sales tax on your utility bills. Retain a copy of the completed DR 1666 for your files.

You will be responsible for remitting annually all applicable state and local sales taxes on the taxable portion of your utility bills directly to the Department of Revenue as long as the tax is less than \$1,200 annually. However, tax should be remitted monthly if it exceeds \$300 per month or quarterly if it exceeds \$300 per quarter. If you have a state sales tax license, the tax is to be remitted on line 10 of the December "Combined Retail Sales Tax Return" (Form DR 0100) which is due January 20. If you do not have a sales tax license, remit the tax annually on a "Combined Annual Retail Sales Tax Return" (Form DR 0100A). These forms are available from the Department of Revenue.

If you paid sales tax for utility usage prior to notifying your utility company that you are wholly or partially exempt, you may apply for a refund of the taxes paid. You may go back no more than three years from the date of the claim for refund to the date



Colorado Department
of Revenue
Taxpayer Service Division
1375 Sherman St.
Denver, Colorado 80261

Forms and other services:
(303) 238-FAST (3278)
Assistance:
(303) 238-SERV (7378)
www.taxcolorado.com

you paid the tax. Submit a "Claim for Refund" (DR 0137) to the Department of Revenue with the documentation as outlined above.

WHEN TOTAL USAGE IS LESS THAN 75 PERCENT EXEMPT

If your utility usage for manufacturing and processing is less than 75 percent exempt, **do not** send a DR 1666 to your utility company. The utility company will continue to charge sales tax on your utility bills. You may take a credit or apply for a refund of the tax paid on the exempt portion. If you are a state sales tax license holder, take a credit of the tax paid on line 3b of your December "Combined Retail Sales Tax Return" (Form DR 0100). Keep the copy of your completed DR 1666 in your files. If you use this method, the credit must be smaller than the tax owed on your December return. If the credit is larger than the tax owed on your December sales tax return, you must apply for a refund on the excess amount. If you do not have a state sales tax license, you must apply to the department annually for a refund of the tax paid to the utility company.

To apply for a refund, complete and submit a "Claim for Refund" (DR 0137). You must file a separate claim for each tax paid (state, RTD/CD/FD, RTA, city, county, etc.). Include documentation to substantiate the claim: your completed copy of the DR 1666; a description of your business activity; the calculations you used in determining the percentage of usage claimed as exempt from tax; copies

of the first and last utility billing for the period for which you are claiming a refund; and a worksheet listing the billing and each tax paid (state, RTD/CD/FD, RTA, city, etc.).

FURTHER INFORMATION

FYIs and commonly used forms are available on the Web at www.taxcolorado.com

For additional sales tax information visit the "Tax Information Index" at www.taxcolorado.com

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having authority to bind the Department, has not formally reviewed and/or approved these FYIs.